

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

DIANE COWAN, et al.

PLAINTIFFS

and

**UNITED STATES OF AMERICA
v.**

PLAINTIFF-INTERVENOR

**Civil Action No. 2:65-CV-00031-GHD
(previously DC 6531-K)**

**BOLIVAR COUNTY BOARD OF
EDUCATION, et al.**

DEFENDANTS

PROPOSED PLAN OF THE CLEVELAND SCHOOL DISTRICT

COMES NOW, the Cleveland School District (or “District”) and submits a proposed school desegregation plan and alternate plan for this Court’s consideration and, in support thereof, would show unto this Court as follows:

On April 1, 2014, the United States Court of Appeals for the 5th Circuit remanded the instant case to the district court for further development of the rationale of the Hon. Glen H. Davidson’s “open enrollment” or “true freedom of choice” plan for the Cleveland School District.

On January 24, 2013, after briefing, an evidentiary hearing and a personal visit to the Cleveland School District, Judge Davidson found that a constitutional desegregation plan for the Cleveland School District would be the abolition of the attendance zone lines for the District’s middle schools and high schools. [Doc #78 Judge Davidson Memorandum Opinion at p.9]. Judge Davidson reflected that his plan offered “true freedom of choice” for the students the Cleveland School District. *Id.*

After examining Judge Davidson’s ruling, appealed by the Department of Justice, the 5th Circuit Court of Appeals requested: “a more explicit explanation of the reasons for

adopting the freedom of choice plan, and/or for consideration of the alternative desegregation plans proposed by the parties, as appropriate.” [Doc #97 Memorandum Opinion at p. 11-12].

Following remand, the Department of Justice approached the Cleveland School District and asked the District to enter into negotiations in an attempt to agree upon a plan for joint submission to the Court. As this Court is aware, Judge Davidson ultimately recused himself from this matter and the case was re-assigned. After months of negotiation, the District and the Department of Justice have not been able to reach a consensus on such a plan.

As such, now pending before this Court is the remand Order from the 5th Circuit Court of Appeals requesting clarification of the “open enrollment” plan ordered by Judge Davidson.

The Cleveland School District supports the “true freedom of choice” or “open enrollment” plan ordered by Judge Davidson and would offer the same for the Court’s consideration. That plan is set forth in the attached Exhibit “A” as Plan “A.” The District has expounded on the open enrollment plan as mandated by Judge Davidson after taking into account the feedback heard from parents and the District’s experts and consultants during this near seven (7) month negotiation process.

After considering “true freedom of choice” as a viable constitutional plan, should this Court find that plan constitutionally unacceptable, then the District submits an alternate plan, or Plan “B” also attached.

Consistent with the Scheduling Order agreed to by the Parties and signed by the Court, the Cleveland School District respectfully requests a hearing on this matter and

that the Court set a pre-hearing conference to establish a pre-hearing scheduling order, which will include a hearing date and which will establish deadlines for completing discovery, designating expert witnesses, exchanging witness lists, filing disclosures and additional briefing. [Doc #99 Scheduling Order at p. 4-5].

Respectfully submitted,
JACKS LUCIANO, P.A.
Attorneys for Defendant
Cleveland School District
By: /s/ Jamie F. Jacks

CERTIFICATE OF SERVICE

I, Jamie F. Jacks, attorney for Defendant Cleveland School District, do hereby certify that I have this date served by electronically filing via the ECF system, a true and correct copy of the above and foregoing Proposed Plan of the Cleveland School District to:

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This, the 23rd day of January, 2015.

/s/ Jamie F. Jacks
JAMIE F. JACKS